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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/617,146

07/10/2003

Anca Faur-Ghenciu

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PA/40320.29/GP-3

7590

06/13/2006

EXAMINER

HANDAL, KAITLY V

Killworth, Gottman, Hagan & Schaeff, L.L.P.

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ART UNIT

PAPER NUMBER

1764

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/617,146

Applicant(s)

FAUR-GHENCUIU ET AL.

Examiner

Kaity Handal

Art Unit

1764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/14/05, 10/8/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claims Analysis*

It is noted that claim 36-61 recite a "system" which is not a statutory category of invention. It has been determined that the claims are directed to an apparatus and the appropriate principles for interpreting claims for that particular category of invention have been applied.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-61 are rejected under 35 U.S.C. 102(e) as being anticipated by Wagner et al. (US 2003/0186804 A1).

With respect to claims 1-2, 4, 12-13, 15-16, 24-25, 27-29, 36-37, 42, 44-45, 50-51, 53-55, 59-60, Wagner teaches a method and apparatus for reducing an amount of carbon monoxide in process fuel gas in a water gas shift converter comprising: placing a high activity water gas shift catalyst system into a water gas shift converter (page 1, paragraph [0008], lines 1-11), the high activity water gas shift catalyst

system comprising a noble metal/platinum (page 3, paragraph [0024], lines 1-6); a mixed metal oxide support consisting essentially of cerium oxide and zirconium oxide (page 3, paragraph [0025], lines 1-8), wherein cerium oxide is present in an amount from about 58% to about 80% by weight of mixed metal oxide and zirconium/lanthanum oxide is present in amount from about 42% to about 20% by weight of mixed metal oxide (page 2, paragraphs [0011]-[0012] & [0019], lines 13-20), and a promoter comprising alkaline earth metals/manganese (page 2, paragraph [0019], lines 9-13); and passing the process fuel gas through the water gas shift converter in effective contact with the high activity water gas shift catalyst system and converting a portion of the carbon monoxide in the process fuel gas into carbon dioxide and hydrogen by a water gas shift reaction (page 1, paragraphs [0007] & [0008], lines 1-11).

With respect to claims 3, 14, 26, 38, 46, 56, wherein the noble metal is present in an amount of between about 1% to about 4% by weight of total catalyst (page 3, paragraph [0023], lines 1-3).

With respect to claims 5, 17, 30, 43, 52, 61, Wagner teaches wherein the promoter is present in an amount of between 0.1% and about 1% by weight of total catalyst (page 2, paragraph [0019], lines 9-13).

With respect to claims 6-7, 18-19, 31, 39-40, 47-48, 57, wherein the mixed metal oxide support further comprises a support dopant selected from praseodymium (page 2, paragraph [0011]).

Art Unit: 1764

With respect to claims 8, 20, 32, Wagner teaches wherein the support dopant is in the form of a metal oxide (page 6, table VI, example 62).

With respect to claims 9, 21, 33, 41, 49, 58, Wagner teaches wherein the support dopant is present in an amount of between about 1 and about 5% by weight of mixed metal oxide (page 2, paragraph [0019], lines 15-20).

With respect to claim 10-11, 22-23, 34-35, Wagner teaches wherein the process fuel gas passes through the water gas shift at a temperature in the range of about 200°C to about 400°C (page 1, paragraph [0008]).

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-61 are provisionally rejected on the ground of nonstatutory double patenting over claims 1, 5-8 and 12-15 of copending Application No. 10/803,799. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: Claims 1-61 of the instant application are fully encompassed by claims 1, 5-8 and 12-15 of the copending Application No. 10/803,799.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kaity Handal whose telephone number is (571) 272-8520. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

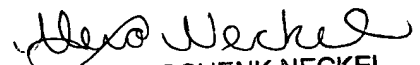
Art Unit: 1764

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KH

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6/6/2006

  
ALEXA DOROSHENK NECKEL  
PRIMARY EXAMINER